

FWP COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: June 5, 2013

Agenda Item: Florence Bridge FAS and Bitterroot River Closures

Division: Fisheries **Action Needed:** Adopt Final Annual Rule

Time Needed on Agenda for this Presentation: 10 minutes

Background

At its April meeting the commission proposed an annual rule that would close a portion of the Florence Bridge Fishing Access Site (150 feet upstream of the bridge) and give the department, with approval from the local commissioner, the authority to close the entire site and a section of the Bitterroot River for public safety. As early as August 1, 2013, the Montana Department of Transportation (MDT) is scheduled to begin replacing Florence Bridge over the Bitterroot River on the East Side Highway near Florence, Montana. The project, which will occur over the next two years, will also include road improvements in the immediate vicinity of the bridge. The heavily-used Florence Bridge Fishing Access Site (FAS) is located adjacent to the bridge and highway right-of-way. Although the access site itself will not be used, the adjacent highway right-of-way will be used by workers and equipment. MDT has requested that FWP close a portion of the FAS that is in close proximity to the bridge and highway right-of-way due to safety concerns over people entering the work zone. Bridge construction will also require crews to conduct some work within the river channel such as during the construction of coffer dams, the construction of work bridges and potential blasting of old bridge piers. MDT contract provisions stipulate that the contractor must provide safe public float passage through the construction site, including a 40' wide x 6' high effective opening between instream construction-related obstructions, and must provide appropriate navigational signage and hazard posting. MDT anticipates that there may be times, however, when construction activities will create unsafe conditions for river users. The proposed rule would give FWP, with approval from the local FWP commissioner, the authority to temporarily close the river up to 1000 feet above and 1000 feet below the construction site to address public safety concerns.

Public Involvement Process & Results

FWP received one comment on the proposed rule. This person is concerned about potential damage to the beach area within the proposed closed section of the access site if construction equipment is allowed there (Note: FWP has not authorized MDT to use the FAS for construction or staging of equipment). This person also questioned whether the closure is necessary if construction is limited to the immediate area around the bridge.

Alternatives & Analysis

The commission could choose to adopt a final rule that allows for on-site adjustment of the fishing access site closure boundary. The department would then post the boundary after considering the safety issues and the public's interest in being able to use the majority of the site.

Agency Recommendation & Rationale

FWP recommends that the commission adopt the rule with amended language that would state that the closed section of the fishing access site is up to 150 feet from the bridge, as posted. This amendment would allow on-site adjustments to accommodate public safety and recreation interests. Overall, the rule would enable FWP to address public safety concerns as they occur but still allow unrestricted recreation most of the time.

Proposed Motion

"I move that the commission adopt the annual rule as amended, closing a portion of the Florence Bridge fishing access site and granting the department and the local commissioner the authority to close the entire site and the Bitterroot River 1,000 feet above and below the bridge if conditions become unsafe."